

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

**H.B. 251**  
**Feb 28, 2019**  
**HOUSE PRINCIPAL CLERK**

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**HOUSE BILL DRH50044-MKf-91B**

Short Title: State Bd. of Ed./Education Changes.-AB

(Public)

Sponsors: Representatives Hurley, Hardister, Blackwell, and Horn (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO RESTORE THE STATE SALES TAX REFUND FOR SCHOOLS; EXTEND THE  
3 STATE BOARD OF EDUCATION RULE MAKING DATES; PROVIDE FOR A RULE  
4 MAKING EXEMPTION FOR TEACHER LICENSURE; EXPAND THE USE OF FUNDS  
5 IN THE TEXTBOOK AND DIGITAL RESOURCES ALLOTMENT TO INCLUDE  
6 ELECTRONIC DEVICES; AND MODIFY CERTAIN PROVISIONS RELATED TO  
7 CLASS SIZE, AS RECOMMENDED BY THE STATE BOARD OF EDUCATION.

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. STATE SALES TAX REFUND FOR SCHOOLS**

11 **SECTION 1.1.** Subdivision (2b) of subsection (c) of G.S. 105-164.14 is reenacted  
12 as it existed immediately before its repeal.

13 **SECTION 1.2.** Subdivision (2c) of subsection (c) of G.S. 105-164.14 is reenacted  
14 as it existed immediately before its repeal.

15 **SECTION 1.3.** G.S. 105-467(b) reads as rewritten:

16 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in Article  
17 5 of Subchapter I of this Chapter, except for the exemption for food in G.S. 105-164.13B, apply  
18 to the local sales and use tax authorized to be levied and imposed under this Article. The State  
19 refund provisions contained in G.S. 105-164.14 and G.S. 105-164.14A apply to the local sales  
20 and use tax authorized to be levied and imposed under this Article. A refund of an excessive or  
21 erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales  
22 tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the  
23 local sales and use tax authorized to be levied and imposed under this Article. The aggregate  
24 annual local refund amount allowed an entity under G.S. 105-164.14(b) for the State's fiscal year  
25 may not exceed thirteen million three hundred thousand dollars (\$13,300,000). A

26 ~~Except as provided in this subsection, a taxing county may not allow an exemption, exclusion,~~  
27 ~~or refund that is not allowed under the State sales and use tax. A local school administrative unit~~  
28 ~~and a joint agency created by interlocal agreement among local school administrative units~~  
29 ~~pursuant to G.S. 160A 462 to jointly purchase food service related materials, supplies, and~~  
30 ~~equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this~~  
31 ~~Article on direct purchases of tangible personal property and services. Sales and use tax liability~~  
32 ~~indirectly incurred by the entity as part of a real property contract for real property that is owned~~  
33 ~~or leased by the entity and is a capital improvement for use by the entity is considered a sales or~~  
34 ~~use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The~~  
35 ~~refund allowed under this subsection does not apply to purchases of electricity,~~  
36 ~~telecommunications service, ancillary service, piped natural gas, video programming, or a~~



1 ~~prepaid meal plan.~~ A request for a refund is due in the same time and manner as provided in  
2 G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred."

3 **SECTION 1.4.** Effective July 1, 2019, G.S. 105-164.44H is repealed.

4 **SECTION 1.5.** Except as otherwise provided, this Part becomes effective July 1,  
5 2019, and applies to sales made on or after that date.

## 6 7 **PART II. STATE BOARD OF EDUCATION RULE MAKING**

8 **SECTION 2.1.** G.S. 150B-1(d) reads as rewritten:

9 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
10 following:

11 ...

12 (30) The State Board of Education in administering the provisions of Article 17E  
13 of Chapter 115C of the General Statutes."

14 **SECTION 2.2.** G.S. 115C-2 reads as rewritten:

15 "**§ 115C-2. Administrative procedure.**

16 ~~All~~ With the exception of action taken by the State Board of Education in administering the  
17 provisions of Article 17E of this Chapter, all action of agencies taken pursuant to this Chapter,  
18 as agency is defined in G.S. 150B-2, is subject to the requirements of the Administrative  
19 Procedure Act, Chapter 150B of the General Statutes."

20 **SECTION 2.3.** Section 27(b) of S.L. 2018-114 reads as rewritten:

21 "**SECTION 27.(b)** The General Assembly finds that the North Carolina Supreme Court, in  
22 *North Carolina State Board of Education v. State of North Carolina and North Carolina Rules*  
23 *Review Commission*, No. 110PA16-2 (June 8, 2018), affirmed the authority of the General  
24 Assembly to delegate authority to the Rules Review Commission to review and approve the  
25 administrative rules that are proposed by the State Board of Education for codification. To ensure  
26 that administration of the free public schools shall continue without interruption, the existing  
27 policies of the State Board of Education subject to rule making as provided in Chapter 150B of  
28 the General Statutes shall be deemed interim rules so long as they do not conflict with any  
29 provisions of the General Statutes. Any interim rule authorized by this section shall become null  
30 and void May 30, ~~2019, 2020~~, if the State Board of Education has failed to publish a notice of  
31 text in the North Carolina Register to adopt that interim rule as a permanent rule, as required by  
32 G.S. 150B-21.2. Any interim rule authorized by this section shall become null and void May 30,  
33 ~~2020, 2021~~, if the State Board of Education has failed to adopt that interim rule as a permanent  
34 rule by that date in accordance with Article 2A of Chapter 150B of the General Statutes."

## 35 36 **PART III. EXPAND TEXTBOOK AND DIGITAL RESOURCES ALLOTMENT TO** 37 **INCLUDE ELECTRONIC DEVICES**

38 **SECTION 3.1.** G.S. 115C-105.25(b)(12) reads as rewritten:

39 "(12) Funds allotted for textbooks and digital resources may only be used ~~for the~~  
40 ~~purchase of textbooks and to acquire, by purchase, rental, or lease, (i)~~  
41 textbooks, which includes technology-based programs, (ii) other digital  
42 resources. resources to be used in the learning process, and (iii) electronic  
43 equipment used to access technology-based programs and digital resources,  
44 such as online curriculum and instructional content. These funds shall not be  
45 transferred out of the allotment for any other purpose."

46 **SECTION 3.2.** Section 8.18(b) of S.L. 2015-241 reads as rewritten:

47 "**SECTION 8.18.(b)** The State Board of Education shall establish the purposes for which  
48 the funds within the new Textbooks and Digital Resources funding allotment may be used for as  
49 follows: ~~(i) to acquire textbooks as defined in G.S. 115C-85, by purchase, rental, or lease, (i)~~  
50 textbooks, which includes technology-based programs, programs, (ii) other digital resources to  
51 be used in the learning process, and (ii) only for allowable expenditures as were permitted under

1 ~~the Textbooks funding allotment as of June 30, 2015.~~(iii) electronic equipment used to access  
 2 technology-based programs and digital resources, such as online curriculum and instructional  
 3 content."

4 **SECTION 3.3.** This Part becomes effective July 1, 2019.

5 **PART IV. CLASS SIZE CHANGES**

6 **SECTION 4.1** G.S. 115C-301 reads as rewritten:

7 "**§ 115C-301. Allocation of teachers; class size.**

8 ...

9 (c) **Maximum Class Size for Kindergarten Through Third Grade.** – The average class size  
 10 for kindergarten through third grade in a local school administrative unit shall ~~at no time not~~  
 11 ~~exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At~~  
 12 grade at the end of the second school month and for the remainder of the school year, year.  
 13 Additionally, at the end of the second school month and for the remainder of the school year, the  
 14 size of an individual class in kindergarten through third grade shall not exceed the allotment ratio  
 15 by more than three students. The funded class size allotment ratio for kindergarten through third  
 16 grade shall be as follows:

17 ...

18 (g) **Waivers and Allotment Adjustments.** – Local boards of education shall report  
 19 exceptions to the class size requirements set out for kindergarten through third grade and  
 20 significant increases in class size at other grade levels to the State Board and shall request  
 21 allotment adjustments at any grade level, waivers from the requirements for kindergarten through  
 22 third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within  
 23 funds available, may allot additional positions at any grade level. The State Board shall not grant  
 24 waivers for excess class size in kindergarten through third grade, except under the following  
 25 circumstances:

- 26 (1) ~~Emergencies or acts of God that impact the availability of~~ Inadequate  
 27 classroom space or facilities-facilities that would require a facility expansion  
 28 or relocation.  
 29 (2) An unanticipated increase in student population of an individual school in  
 30 excess of two percent (2%) of the average daily membership of that school.  
 31 (3) Organizational problems in geographically isolated local school  
 32 administrative units in which the average daily membership is less than one  
 33 and one-half per square mile.  
 34 (4) Classes organized for a solitary curricular area.  
 35 (5) A charter school closure.  
 36 (6) A shortage of qualified, licensed teachers available to teach in the grade level  
 37 for the number of classrooms required at the individual school.

38 The State Board shall report on all waivers to the Joint Legislative Commission on  
 39 Governmental Operations within 30 days of the grant of the waiver. The report shall include the  
 40 local school administrative unit, school, and class or classes for which the waiver was granted,  
 41 the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size  
 42 in kindergarten through third grade shall not become effective until the State Board submits the  
 43 report to the Joint Legislative Commission on Governmental Operations.

44 Upon notification from the State Board that the reported exception does not qualify for an  
 45 allotment adjustment or a waiver, the local board of education shall take action to correct the  
 46 exception within 30 days. Within 60 days of notification by the State Board, the Superintendent  
 47 of Public Instruction shall request an updated report from the local board of education on the size  
 48 of each class in kindergarten through third grade for each school within the local school  
 49 administrative unit. If the Superintendent of Public Instruction finds that a local board of  
 50 education is continuing to exceed class size requirements, the State Board may impose the

1 penalty set forth in subsection (j) of this section until such time the schools in the unit meet the  
2 class size requirements for kindergarten through third grade.

3 ...."

4 **SECTION 4.2** Section 2(b) of S.L. 2018-2 reads as rewritten:

5 "SECTION 2.(b) Notwithstanding G.S. 115C-301, as amended by this act, and any other  
6 provision of law, for the 2019-2020 school year, the average class size for kindergarten through  
7 third grade in a local school administrative unit shall not exceed one teacher per 19 ~~students. At~~  
8 students at the end of the second school month and for the remainder of the school year.  
9 Additionally at the end of the second school month and for the remainder of the school year, the  
10 size of an individual class in kindergarten through third grade shall not exceed one teacher per  
11 22 students."

12 **SECTION 4.3** Section 2(c) of S.L. 2018-2 reads as rewritten:

13 "SECTION 2.(c) Notwithstanding G.S. 115C-301, as amended by this act, and any other  
14 provision of law, for the 2020-2021 school year, the average class size for kindergarten through  
15 third grade in a local school administrative unit shall not exceed one teacher per 18 ~~students. At~~  
16 students at the end of the second school month and for the remainder of the school year.  
17 Additionally, at the end of the second school month and for the remainder of the school year, the  
18 size of an individual class in kindergarten through third grade shall not exceed one teacher per  
19 21 students."

20 **SECTION 4.4** This part becomes effective July 1, 2019. Section 4.1 of this part  
21 applies beginning with the 2019-2020 school year.

22  
23 **PART V. EFFECTIVE DATE**

24 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
25 law.